88-765

NO. _____

IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 1988

Supreme Court, U.S.
FILED
OCT 12 1988
JOSEPH F. SPANIOL, JR.
CLERK

THANH VONG HOAI,
Petitioner,

v.

THANH VAN VO, THACH DUY NGUYEN, MY-LINH D. SOLAND, NGUYEN THI BACH LUU, THANH VAN VO, SUNTECH SUNOCO, INC., and MICHAEL ARIF,
Respondents.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit

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APPENDIX II I (Supplemental) PART A

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(Supplemental) APPENDIX III

PART A

Partial Text of the Sworn Affidavit of the PLAINTIFF/PETITIONER THAN VONG HOAI of March 25, 1987.

Paragraphs 523) through 609) pp 1-75

(Paragraphs prior to 523) are found in Appendix II.)

NOTE:Paragraphs 610) through 675) are not included in this part of Appendix III, but were included at the end of Appendix II, Part F, pp. 352-396, which is the entire Part F of Appendix II.)

523) On or about the 3rd or 4th of May, I was sent by my wife to do some shopping at the Saigon Market. I had with me my son who was then two and one half years old. As I left from the Saigon Market out the rear door and I was starting down the sidewalk holding the hand of my son, my way was blocked by three young Vietnamese males about 25 to 29 years old. One of them said: "Are you Mr. Hoài, we want to talk to you right now." "Stand right there," the young man ordered, pointing to a spot on the sidewalk, "We want to talk to you."

I, holding on to my son's arm very strongly, went to the spot pointed out and stood there. All three stood very close to me, staring at me in an unfriendly stare. The young man who was doing the talking asked me roughly: "How come you

lie to THANH (defendant VO's given name) and THACH?"

I said: "Please let me tell to all of you that I confirm that I did not lie to them." (This was all in Vietnamese.) Another one of the three young men said: "You sell the station to them and now you say you did not sell the station to them and you try to interrupt them. Why do you try to interrupt them?"

I replied: "I did not interrupt them. You can ask any Vietnamese people in this area and see if I have done any of them wrong since I came to this country. I have not done wrong to anybody." One of the "cowboys" then said: "You signed a contract to sell the station to them. Now you say you will not sell the gas station to them." I said: "It's true I signed the contract for one dollar but I did that

because they asked me to do that to help them to borrow money from the bank or THANH's father. Why would I really sell the station for one dollar when I tried to buy it and couldn't in 1980 for one hundred and thirty-nine thousand dollars." After more conversation in this vein the leader, who I felt maybe believed me and not what he had heard from VO, even though the others wanted to hurt me, allowed me to leave, saying that he would check my story with THANH, as he called the defendant VO. Then I felt very lucky to have gotten away unharmed and very frightened.

524) A few days later after this frightening encounter with the three cowboys, I called the man I knew on the D.C. Police Force, Lt. Stanley, again, and asked Lt. Stanley if, as named lessee and

franchisee, explaining that if a friend under the guise of lending money, had occupied the station, was there a way I could get the police to help me get my station back. Lt. Stanley told me that it was a civil matter and I would have to get a lawyer. Lt. Stanley recommended a man who was a lawyer in Oxon Hill, Maryland, Prince George's County. I called that man who said that he was recommending another lawyer in D.C. By the time that I got into a conference with this lawyer, however, for various other reasons that appear in subsequent allegations, I had retained another lawyer, defendant MY LINH SOLAND and this lawyer whom I ultimately reached through the advice of Lt. Stanley, told me that my case was an easy one and that I should let the attorney I had already retained, the defendant MY LINH

SOLAND, take care of it. This will appear in more detail below.

525) On the 15th of May I went to the gas station about 10 AM. There I was confronted by the defendant VO as I entered the gas station office. I was standing in front of the desk. Defendant VO was standing behind the desk. VO said: "HOAI, there is nothing here for you, none of your business. Better for you to get out and away from here or somebody will get you out." I said: "The gas station belongs to me. All property here belongs to me, not you." The defendant VO said: "Fuck," and walked out the door, saying, "You will see who belongs to who." Standing outside, the defendant VO said: "If you want to see your family you will get out, away from here now, or your legs will be broken." The defendant VO got in

his van and drove off. There were no "cowboys" in the station at this time, but I believed that the defendant VO was going to get some and I was frightened and I got in my car and left.

526) I went home for a while. After a while I went to see my wife at the Mekong Center food store. We did not know what to do. The next weeks we worked on trying to get the Mekong Center food store situation straightened out as alleged more fully in the subsequent count, but the extortion of that business from us was completed on the 28th of May as alleged more fully below.

527) On June 2, in despair, now having been defrauded and extorted out of both businesses, my wife urged one more try. She thought maybe if she went with me and the defendant VO brought his wife

to the gas station and we talked among ourselves, VO with his wife would see how I had been wronged and would let me back into my gas station or, at the least, she and I could demand and get back the thirty thousand dollar note for which we had never received any actual money. My wife and I did meet defendant VO and his wife at the gas station that day but the defendant VO only reiterated his assertion that the gas station was all his now and he owned it. To the arguments of mine that I was the lessee and franchisee from SUNOCO, the defendant VO only said that he did not care about that because, he, VO, owned the gas station now and everything belonged to him now and he did not want any more problems and was not going to talk about anything else. My wife and I were forced to leave without having

achieved any redress for the wrongs done us or any restitution of what was taken from me during the defrauding and extortion practiced upon me by the defendant VO, the defendant THACH and the defendants MINH, LUU and ARIF with regard to the gas station business, lease and franchise.

528) Subsequently, I learned that the defendant had taken from me also, by fraud and false representation, the business and trade name which I had originated, the name of the SUNTECH SUNOCO, INC., and that defendant VO had used all along the moneys he obtained by the fraud and extortion from me and my business to obtain by fraud and deceit occupancy and other business licenses to which I was entitled and obtained them instead by these frauds and deceits in the name of himself, the

defendant VO, as if he, the defendant VO, were the legitimate owner, all based on the documents that he obtained by fraud and extortion.

529) Thereafter, the defendant VO did hold out to all and sundry, falsely and fraudulently, without revealing that he had in fact obtained his control of the station by fraud and extortion, that he, the defendant VO, was the owner of the gas station business and the lessee and franchisee of Sunoco and committed further fraud and extortion as set out in the following paragraphs and counts, completely depriving me of my gas station franchise and lease despite my best efforts to defend my property, the station, get my station back and mitigate the damages to me and my business. VO was joined and reinforced in these

representations by the defendants THACH, ARIF, MINH and LUU.

530) During the time that he exercised control of the gas station business, from mid-April when he and the defendant THACH first made extortionate threats of violence against me and my family, the defendant VO, who was not properly qualified and trained, whether by formal training or experience or otherwise, to run a gas station, and who was a violent and irresponsible and reckless person in any case, made a mess of the gas station, kept no proper records, did not obtain all the necessary licenses, even fraudulently, did not have proper bonding and insurance, failed to keep proper payroll and other business records, violated the terms of the lease and franchise agreements with Sunoco which

he had appropriated from me, engaged in, and allowed others to engage in, improprieties with the help, "joyrode" a customer's car that was in for repair, leading to an accident, and otherwise destroyed and damaged the gas station business, franchise, lease and dealership beyond repair, doing much damage to my business and business reputation.

531) This was not the first time that the defendant VO had engaged in such a scheme or pattern of racketeering activity consisting of fraud and extortion. After the acts of fraud and extortion recounted herein had been committed by the defendants and had resulted in my losing my gas station business and in that business being severely damaged and my reputation being damaged, I called a man whose hot dog van I had once repaired when

I ran the body repair shop on Capitol Hill described above. This man's name is Mr. Hy and he also is an ethnic Vietnamese. When I contacted Mr. Hy, Mr. Hy told me of the attempts by the defendant VO, using the cowboys, to take from them their hot dog vending business and control by fraud and threats of force and violence the best locations for hot dog and refreshment vending in the District of Columbia such as at the Air and Space Museum on the mall. In this scheme of fraud and extortion there were fraudulent representations of defendant VO's being a public official known as the "liaison" with the D.C. police in charge of assigning vendor locations for the D.C. government, a representation as fraudulent as, and remarkably similar to the representation in this instance that the

defendant THACH was the owner and president of the McLean Bank. There were death threats sent through the mail. There was both actual collusion with at least one police officer, and fraudulent representations of collusion with and control over others. In essence it was the same combination of fraud using the telephone and sometimes using the mail with extortion that is seen in the present instance.

532) As laid out more fully in subsequent counts, on May 27 and 28, the defendants MINH, LUU and THACH, along with the defendant "cowboys," by a similar process of fraud and extortion to culminate the pattern of such activity alleged above, took from me and my wife the control of the Mekong Center food store and cut me off from retrieving any

of what my wife and I had invested in that business. This was just five days before the fruitless meeting between my wife and me and the defendant VO and his wife at the gas station described above.

533) As I describe more fully in subsequent statements, there were additional acts in the pattern of racketeering activity of these and the other defendants that took place after this meeting on June 2, 1986, involving one or more of mail or wire fraud, extortion, extortionate credit transactions, interfering with commerce, or bribery.

534) All of the above acts of fraud and those set out and summarized subsequently consistently relied upon or incidentally used wire fraud since the telephone was an integral part of the

communication net, or, in a few instances, fraud by mail.

535) All of the above acts of fraud and extortion and those summarized subsequently in my affidavit constitute interference with interstate commerce as I understand those crimes and apply them to what happened to me.

536) The taking of the gas station lease and franchise from me as set out above and subsequently in this count by fraud and extortion was set up and enabled by the extortionate credit transaction of the defendants VO and THACH in which they intended from the outset to take back, within a year, a gas station lease and franchise worth in excess of one hundred and seventy-five thousand dollars ($175,000.) for loan funds which they actually put up between them of

approximately ten thousand dollars ($10,000.). The thirty-five thousand dollar figure which the defendant VO represented that he was going to lend was a fraud and a deception. The defendant VO never put up any money of his own and the money put up for him in this scheme of fraud and extortion by the defendant THACH never amounted to more than the seven thousand dollars ($7,000.) put up on March 21, 1986, at the meeting with Ernie Peele in the form of cashier's checks plus whatever money he put up to cover the dishonored check to Sunoco after I was notified on April 24 that the check for the gasoline had been dishonored. The supposed loan of fifteen thousand dollars ($15,000.) given fraudulently and extortionately for the thirty thousand dollar ($30,000.) note was a fraud and a

deception in which no real benefit of it was ever allowed to me even though, constructively, I was entitled to it and the benefit of it in the form of the major part of the purchase price payment to defendants MINH and LUU for the Mekong Center food store business. Therefore, this was an extortionate credit transaction collected by extortionate means under the law to my best belief and understanding.

537) Similarly the "loan" from defendant VO (really VO and THACH) to enable me supposedly to pay defendants MINH and LUU the fifteen thousand dollars ($15,000.) toward the twenty thousand dollars ($20,000.) purchase price of the Mekong Center food store business (my wife and I had access to, and intended to supply the other five thousand dollars

($5,000.) of the purchase price in exchange for the lease as is more fully set out in the subsequent count) was, in addition to fraud as set out above, an extortionate credit transaction and was collected by extortionate means in that it was intended from the outset that the defendants MINH, LUU, THACH and VO get back between them, as set out above, a business worth more than twice the money supposedly "loaned," inventory of the food store worth more than twice as much and a note they intended to enforce for twice the money of the "loan," all within a few months. The relation of this fraud, extortion and extortionate credit transaction concerning the Mekong Center food store to the fraud and extortion of the gas station business was to deprive me and my wife of our capital with which we

otherwise could have sought to stop the fraud and extortion that deprived me of the gas station lease and franchise.

538) All of the allegations set out a pattern of racketeering activity as I understand the meaning of that term, and form the basis of my specific complaints seeking damages for the two separate portions of that pattern of racketeering activity as it culminated in the illegal fraud and extortion of my two businesses.

539) When my wife and I met with the defendant VO and his wife at the station on June 2, 1986, to no avail, I informed the defendant VO that I was now going to the Sun Oil Company to get their assistance and also to the police. When my wife and I returned home that day, June 2, 1986, I called Ernie Peele and explained to him what had been happening.

Ernie Peele said he had sent me a registered letter on behalf of Sun Oil Company and I explained that the letter had never been delivered to me. I and Ernie Peele on behalf of Sun Oil Company agreed that we would meet at the gas station on June 5, 1986, at 10 AM. Ernie Peele agreed that it was my SUNOCO station and that he and I together would tell the defendant VO to get out of the station. I said my lawyer would come with me which Ernie Peele agreed was a good idea. I took with me to the meeting as my lawyer defendant MY LINH SOLAND, whom I had retained to be my attorney in these matters on May 28, 1986, after my wife and I were locked out and extorted out of the Mekong Center food store business.

540) At approximately 9:55 AM on June 5, 1986, I and the defendant MY LINH

SOLAND, retained to be my lawyer, met at the gas station. Defendant VO was there at the time. Ernie Peele arrived about five minutes after 10 AM. Ernie Peele, I and defendant MY LINH SOLAND walked into the station office. Immediately the defendant VO addressed the defendant SOLAND in Vietnamese, attempting to interfere with the attorney-client relationship between me and my attorney by reproaching the defendant SOLAND for being my attorney and asking her to be his, VO's attorney, as well as telling an outrageous, slanderous lie that he had given his wife to me to sleep with and what else did he have to do to get the station from me. Defendant SOLAND (this was part of the fraud and deceit) turned on me and tried to make me defensive about this outrageous lie rather than doing her job.

541) When this tactic did not work as planned VO and I began to talk in English at the instruction of defendant SOLAND, when suddenly the telephone rang. This also was an act of prearranged fraud and deception using the phone. When this phone call interrupted the conversation in English between the defendant VO and me, defendant VO answered the phone and then said dramatically to the others that it was his lawyer who was calling and that his lawyer wanted to talk to Ernie Peele. Ernie Peele said he wanted to talk to the man on the phone, who was in reality the defendant THACH pretending to be the defendant VO's lawyer as part of the fraud.

542) When Ernie Peele got on the telephone the man on the other end, who was the defendant THACH pretending to be a

lawyer, asked Ernie Peele why he was still involved with the gas station and me when he, Ernie Peele, had already accepted ten thousand dollars ($10,000.) to settle the matter. Ernie Peele got very angry. He said: "Hold it one minute, hold it one minute." Angrily turning to the defendant VO, Ernie Peele asked him why VO's lawyer had said that VO had told the lawyer that he, VO, had given Ernie Peele ten thousand dollars ($10,000.). VO denied that he had said that very adamantly. Ernie Peele asked the defendant VO why he said one thing and his lawyer another. Ernie Peele then said he wanted the matter straightened out if it took all day. Ernie Peele asked the person on the other end of the phone line if that person could come to the station right away to straighten the matter out. Ernie Peele

hung up. Ernie Peele was very angry. He pounded on the table and said that he was going to wait there until VO's lawyer came to straighten out the matter about his having taken a ten thousand dollar ($10,000.) bribe before he straightened anything else out.

543) While the parties were waiting for defendant VO's "lawyer," the defendant VO did something that frightened me. In the prefabricated metal building of the station, there is a secure storeroom with a heavy steel door and no windows. This room, with the doors shut, was like an isolated chamber which was built by SUNOCO for security purposes. The defendant VO said in Vietnamese that he wanted to talk to me separately. When I asked him what he pointed to the secure storeroom and said he wanted to talk to me in that room.

I started to the storeroom and was already through one of the doors leading to the room when the defendant MY LINH SOLAND told me not to go in the room and asked me and the defendant VO to do their talking outside because, she told me if he went in that room alone with the defendant VO, VO might kill me inside the room and no one could protect me.

544) After this happened and about 10 or 12 minutes after the phone conversation between Ernie Peele and the defendant VO's "lawyer," the defendant THACH arrived at the gas station. Normally the defendant THACH wears an outfit consisting of a short sleeve jacket with 4 pockets of the kind that are commonly worn in Southeast Asia and slacks but the defendant VO did not wear such a jacket. On this occasion, however, the

defendants THACH and VO both wore the 4 pocket blue jackets of exactly the same color, as if it were a uniform. The defendant THACH was carrying a black, hard frame lawyer's briefcase. THACH came into the office of the station, looked around and announced that everybody in the room was a "trespasser." THACH said that the police were coming to lock everyone up. Looking at Ernie Peele, THACH said: "You too, Mr. Ernie Peele, you're a trespasser too." A few seconds later the defendants MINH and LUU arrived at the station in a separate car. They stayed in the car outside the station building, just sitting there, until much later, not taking part in the ensuing discussion with the police.

545) Ernie Peele was very angry and he said that before anything else he

wanted to straighten out the matter of the alleged ten thousand dollars ($10,000.) he was supposed to have taken to settle the matter of my business. "Are you VO's lawyer?" Ernie Peele asked. THACH said: "No, I am VO's brother." Ernie Peele asked if the defendant THACH had just talked to him on the phone and the defendant THACH said yes. Ernie Peele then asked if the defendant THACH had just told him that VO had given him, Ernie Peele, ten thousand dollars ($10,000.). THACH said yes that he had because THANH VO had told him that. Ernie Peele said that the defendant THACH had just told him on the phone that he was VO's lawyer and now the defendant THACH was saying that he was not VO's lawyer and he asked where VO's lawyer was. THACH said that VO's lawyer was busy. Ernie Peele asked the

defendant THACH and VO when VO's lawyer could come and THACH said: "not today, not today." Ernie Peele said that it didn't matter about the lawyer then, he wanted to know when anyone had given him ten thousand dollars ($10,000.).

546) I recalled at this time that back in the evening of April 26, 1986, or thereabouts, right after the defendants THACH and VO first threatened me with death and bodily harm, when I was at my home, the defendant VO had telephoned me and told me that I should not think that I could go to Sunoco and get help from them because he, VO, had already given money to Ernie Peele and Ernie Peele had already taken money from him. You cannot go to him anymore, VO told me, he will not listen to you." He said we already control Sunoco. We've taken care of

everything from the top. I told the defendant VO at that time on the phone that he did not believe this about Ernie Peele.

547) Coming back to June 5, 1986. Ernie Peele then asked me if I had given ten thousand dollars ($10,000.) to Ernie Peele. I said no, that I had not given Ernie Peele ten thousand dollars ($10,000.) but that I had been told by VO as set above that VO had given Ernie Peele money. Is that what he said, Ernie Peele asked, and he turned to VO and asked directly if VO had given him money. VO replied to Ernie Peele: "No." Ernie Peele asked VO why he had told the defendant that he had given Ernie Peele ten thousand dollars ($10,000.) as THACH (pointing to THACH and calling him "this gentleman here") had told him a short while before

on the phone.

548) By this time three police cars with five officers of the Metropolitan police in them had arrived outside. Without allowing any more replies to Ernie Peele, the defendant THACH suddenly threw open the door and walked out, saying to the police that everyone inside is a trespasser and he wanted them locked up. "Please lock them up," he said, "Please lock them up." One of the police officers said: "Wait a minute. Has there been a riot in here?" THACH said to the police officer: "They steal the business; first they sell it to us and now they try to steal the business." THACH then opened his briefcase and started to show the police what I could see was the one dollar contract which he had been forced to sign with threats of violence and the

fraudulent promises. The police told THACH and VO that it sounded like a civil matter.

549) Ernie Peele walked out and told the police his name and that he was the Sunoco representative. The police gave the contract to Ernie Peele and Ernie Peele looked at it and said that this was the first he had seen the contract. The police asked Ernie Peele if he accepted the contract and Ernie Peele said no, that his company did not accept the contract. The police asked Ernie Peele who owned the station and Ernie Peele told the police that the I did. I told the police that they had forced me to sign the one dollar contract by threatening my life and those of my family. The police said it was a civil case and that they could not get involved. The police left.

550) After further conversation that is detailed more fully in following counts and on the advice of the defendant SOLAND who told me that I would be killed if I stayed in the station despite the orders of the area representative Ernie Peele, who ordered me to stay in the station, and on my counsel's advice, I then left the station. This was a further act of fraud and deceit.

MY LINH SOLAND

551) The defendants VO, THACH, MINH, LUU and ARIF, could not have completed their fraud and extortion of the gas station without the fraud and the conspiratorial assistance of the defendant MY LINH SOLAND on this occasion and subsequently.

552) In April I read in the Vietnamese language newspaper The

Vietnamese Washington Post a congratulatory message to MY LINH SOLAND for passing the Virginia bar examination.

553) I first called defendant MY LINH SOLAND on the morning of May 28, 1986, after my wife and I had been locked out of the Mekong Center food business the evening before and the defendants MINH, LUU and THACH, assisted by "cowboys" and a fraudulent use of the police similar to that attempted in the gas station, had defrauded and extorted me and my wife of our Mekong Center food store business.

554) The defendant SOLAND was associated in her practice of law with the offices of a Virginia attorney named Herman W. Lutz, whose offices are at 109 S. Fairfax Street, Alexandria, Virginia. As far as I know she still is. She held herself out to me as well as to my wife as

being free to represent us in the matter of problems with defendants MINH and LUU, VO and THACH in connection with the fraud and extortion of the Mekong Center food store business and in the matter of our problems with THACH and VO in connection with the Sunoco lease and franchise aforesaid, as supported also by MINH and LUU in their actions on June 5, 1986, as aforesaid.

555) While the defendant SOLAND was so holding herself out, and unbeknownst to me and my wife, from some time in April or so, she was, with the lawyer Lutz, with whom she not only had office space, but also on whose letterhead she appeared, representing the defendants MINH and LUU. She never revealed this to me until forced to do so by events revealing this dual agency to me. That did not happen until

August of 1986.

556) When I called the defendant SOLAND on the morning of the 28th of May I called her at the offices of the lawyer Lutz. This call was made at the suggestion of Mr. Tung of the Saigon Market.

557) Later, in connection with the gas station meeting on June 5, as set out above, my mother-in-law called the defendant SOLAND because she had read of her in the message in the Vietnamese language paper. I had then called home and my mother-in-law told me that the defendant SOLAND wanted me to call her at her office.

558) When I first called the defendant SOLAND on May 28th, at the suggestion of Mr. Tung, I told defendant SOLAND about what had happened at the

Mekong Center food store and she agreed to represent me and my wife in connection with this matter. My wife and I went to the office of defendant SOLAND in the offices of the lawyer Lutz and she agreed to represent me and my wife in connection with the Mekong Center fraud and extortion but said that we could pay her later. That same day defendant SOLAND agreed to write a letter to MINH and LUU. My wife and I were led to believe by her statements and actions that, since she was agreeing to represent us that she was going to send this letter as our lawyer and she led us to believe that as a fraud and deceit on which we relied to our detriment. Written for me and my wife, for my signature, we received it the following day from our friend Mr. Tung of the Saigon Market. She did not charge for

this letter. On this occasion in her office the defendant SOLAND undertook to discuss the matter with the defendants MINH and LUU and she said that she was a very good lawyer and that she would make the defendants MINH and LUU vacate the Mekong Center and pay back the fifteen thousand dollars and put me back in the Mekong Center food store until everything was straightened out and the lease I had wanted was signed and then I could pay the defendants MINH and LUU and have the business.

559) On May 29, the same day that I received the draft letter from the defendant MY LINH SOLAND through Mr. Tung of the Saigon Market, I signed the letter and sent it to the defendants MINH and LUU.

560) From May 29 until June 11, I

kept asking the defendant SOLAND, calling her at her office with Lutz every day, asking her what she was going to do. The defendant SOLAND told me that she was my lawyer and it wouldn't even require court action for her to get the defendants MINH and LUU to return the Mekong Center food store. She used a Vietnamese expression, she would "tear MINH's face off." This was a fraud and a deceit. In reality defendant SOLAND and/or the lawyer Lutz were representing the defendant MINH and/or the defendant LUU during this period.

561) In the meantime on June 5, 1986, about 9 AM, my mother-in-law again called the defendant SOLAND and explained briefly to her about the gas station situation and asked her to represent me, HOAI, in the conference at the gas station scheduled

for later that morning. My mother-in-law told the defendant SOLAND that she, the mother-in-law, Mrs. Phan Anh, would pay the fee. Defendant SOLAND asked my mother-in-law formally to have me retain her over the phone. I, HOAI, did and the defendant SOLAND agreed to represent me at the meeting scheduled for 10 AM. I paid her by check on my personal account later that day after the meeting.

562) I went to the meeting by subway and the events described above ensued.

563) In front of the officers before they left the gas station Ernie Peele said in front of the officers and the defendants SOLAND, THACH and VO, that I, HOAI, was the franchisee and lessee of the station as far as Sunoco was concerned. He said also that I, HOAI, was the legal owner of the business. Ernie Peele said

to me, HOAI, in front of the police and in front of the defendants THACH and VO that this was HOAI's station, that I was the legal owner of the business and that the defendant SUNOCO had leased it and franchised it to me, HOAI, that he (Peele) wanted to see me in the station from now on every day and to see me, HOAI, running my business. THACH and VO pointed to the one dollar contract to which Ernie Peele replied that it was not valid as far as Sunoco was concerned because it had not been cleared with Sunoco first as was required and that he could not accept it and if THACH and VO had any claim they would have to settle it between themselves and me.

564) After the police left the defendants VO and THACH remonstrated with Ernie Peele, claiming that I had lied to

him and asking him why he believed me and so forth. Ernie Peele told them again that they would have to settle any such claims between themselves and me. He repeated to me in front of the defendant SOLAND that he wanted to see me in the station, that I was the manager of the station, that he did not want me leaving it again.

565) The defendant SOLAND then talked to me in Vietnamese and contradicted this advice. She told me that she would not be my lawyer unless I left, that I would be killed if I tried to run my gas station and so on. She told me that she would go into the court the next day and get the defendants VO and THACH thrown out of the gas station "by the law," or in any case, no later than Monday, that she was a member of bar in the District of Columbia

as well as Virginia and even in Maryland, that she was a very strong lawyer and the defendants VO and THACH could not escape her, and so on.

566) This was all a fraud and a deceit, misrepresentations designed to induce me to rely upon her to my detriment, which I did. Defendant SOLAND was trying to further frighten me, not help me as my attorney. She was not a member of the D.C. Bar and had no intention of going into court in D.C. and getting any injunction, order or other judicial relief as she represented. Threatening to not represent me unless I disobeyed Ernie Peele's requests and instruction was advice designed not to help me save the station but to lose it to these defendants who were there, including her clients, MINH and LUU.

567) I got in the car of defendant SOLAND and it ran about ten or fifteen feet across the gas station lot when suddenly she stopped the car and said that she had forgotten something and said: "Let me go inside." She asked me to stay in her car and went back inside. About this time the defendants MINH and LUU, who had been sitting in their car on the gas station lot, left their car and went inside the station where a conversation ensued between the defendants MINH, LUU, SOLAND, THACH and VO and Ernie Peele. I could see the people talking calmly. I could see the defendant SOLAND gesturing.

568) The defendant SOLAND came back out from the gas station and got back into the car. She told me that the defendants THACH, VO, MINH and LUU had talked "very bad" about me to Ernie Peele. Then she

said to me that I still had "my life and gas station" and I should go home. We left in her car.

569) After the police had left and before I had gotten into the car of defendant SOLAND, Ernie Peele asked me in front of the defendants VO and THACH, while Ernie Peele was telling me that he wanted me to stay in the station, if I had received a letter sent to me by certified mail by SUNOCO. I said: "What letter?" and said that no I had not received any letter. Ernie Peele asked the defendant VO if he had received the letter. VO replied that yes he had received the letter and he had signed for it and opened it. Ernie Peele said that the letter was sent because he had received a letter from his boss in Sunoco, Vaughn, who was concerned about me not being in the

station. Ernie Peele said that the letter inquired of me why I had not been in the station managing it as the contract required and warned me that if I did not stay in the station and manage it I would be in violation of the lease and the franchise agreement and my SUNOCO franchise and lease would be cancelled. The defendant VO admitted to Ernie Peele and me that he had read the letter and knew what it said but that he had "lost it" (all this that was said to Ernie Peele was said in English). Ernie Peele said that he would call the main office to get another copy sent to me and asked where I wanted it sent. I asked for two copies, one to my home and one to the station. I got the copy at my home two days later. The copy sent to the station was again intercepted and never delivered.

570) The defendant SOLAND drove me home and then my wife and I drove to her office and gave her a check for five hundred dollars ($500.) for each case as an initial retainer, or a total of one thousand dollars ($1,000.) At that time the defendant SOLAND had drawn up a form retainer agreement for the work on the gas station problem and another one for the work on the Mekong Center food store. In them the defendant SOLAND undertook to represent me with regard to the two problems as separate undertakings, each at one hundred dollars ($100.) per hour. Both my wife and I signed these retainer agreements.

571) This was a fraud on the part of the defendant SOLAND, and the telephone had been used to accomplish it. For it was over the telephone that she was

retained and the written retainer contracts and the payments in the office only confirmed the agreements reached over the telephone. She knew in undertaking to represent me and my wife that she and/or Lutz with whom she was in partnership, represented the defendants MINH and LUU whose interests were diametrically opposed to those of mine in both of these matters and she misrepresented that she could represent me in this matter in order to induce me to rely upon her to my harm and detriment, which I did.

572) I had run several gas stations in my career and had shown an ability, often under difficult conditions, to run them profitably and well.

573) In my prior work as a supervisor for the Sun Oil Company, I had gained a knowledge of marketing strategy, pricing

strategy, and of the locations and their worth in the Washington D.C. area.

574) My success in running these prior stations under the market and operating conditions I ran them under, my success in raising the volume of the Pennsylvania Avenue station in the few short weeks I was able to run it, even with the defendant VO improperly controlling the checking account and interfering in the hiring of the help and other crucial decisions, the traffic volume and this location, prior bargaining over this same franchise and location, the historic gallonage and sales figures, those achieved within the few months of operation and those agreed upon between me and the Sun Oil Company and many other factors all indicate that the worth of the gasoline station franchise and lease, and

the business thereof, which was destroyed by the pattern of racketeering activity and the schemes of fraud using the telephones and mail, of extortion and of interference with commerce set out in this count, in terms of its market value, was in excess of one hundred and seventy-five thousand dollars ($175,000.) as a business, without regard for the damage to my business and business reputation generally and without regard to pain and suffering and mental distress inflicted upon me and the members of my family by the threats of death and bodily harm.

575) Throughout the scheme and pattern of racketeering activity set out above, the defendants VO and THACH and ARIF in particular, in connection with their fraud and the fraudulent representations which were essential to

and connected with that fraud, such as that defendant THACH was a banker, that defendant THACH was "the" owner and president of the McLean Bank, that the defendants VO had a large construction business, that the defendant THACH had a large construction business, that defendant ARIF had negotiated on behalf of the defendants THACH and VO and had drafted for them a legitimate contract, free of extortion and fraud, which I had then dishonored, and so forth.

576) In addition, the defendants VO and THACH and ARIF engaged in many acts and representations, many of which are set out in the allegations above, deliberately designed to damage my business and business reputation with SUNOCO. This included such things as the imposition of the parking and business of the hot dog

trailer upon me against my will, the manipulating of the gas station bank account to cause the check for the initial gasoline delivery to be dishonored, the interference with the United States mail to prevent me from receiving the registered or certified letter from SUNOCO, false representations about my business habits and abilities, my absenteeism to SUNOCO, members of the Vietnamese community, to business associates such as my longtime insurance man, and many other such things. The allegations above about the three "cowboys" who confronted me and threatened me with bodily harm is only one example. Another is what was said at the June 5, 1986 meeting at the station referred to above. There are many, many others.

577) For example, at the meeting on

the fifth of June referred to above, the defendant THACH, supported by the defendant VO told the totally outrageous lie to Ernie Peele that I had stolen one hundred thousand dollars ($100,000.) from the sister of defendant THACH, a fabrication for which there is no support whatsoever. Another example is in connection with recordkeeping. The defendants THACH and VO operated out of a briefcase, literally, and kept no records or kept records of such a primitive nature in this and any other of their "scams" or enterprises that they can be said literally to ignore the ordinary prudent requirements of business recordkeeping in all that they do. Yet throughout this pattern of racketeering activity and up to this day, they attempt to cover this up by accusing me with groundless accusations of

theft or destruction of records.

578) The defendant SOLAND, as we have seen from the behavior she exhibited in connection with the outrageous lie of the defendant VO about his having given me his wife to sleep with, though ostensibly representing me, went along with and gave credence to many of these misrepresentations and falsehoods.

579) The defendants MINH and LUU joined in and supported these lies to damage my business and business reputation and good will in connecting with the gas station fraud and extortion on June 5, 1986, and also in connection with the fraud and extortion of the Mekong Center food store business whereby I, HOAI, was defrauded and extorted of my capital for the gas station business.

580) The defendant ARIF participated

in this campaign of lies and slander to damage my business and my business reputation in connection with his fraudulent representation of defendant THACH as a "banker" which was central to the scheme of fraud and extortion. This was in addition to his central participation in the acts of fraud and extortion themselves. Later, on July 14, the defendant ARIF was specifically put on notice by the defendant SOLAND that at that time the defendants VO and THACH were threatening to kill me and yet ARIF continued to lie and cover up his knowledge of the fraud and extortion.

581) The defendants ARIF and SOLAND aided and/or abetted, counselled, commanded, induced or procured this scheme of fraud and extortion and/or its constituent acts or some of them.

582) All of these defendants or some of them, from time to time as set out specifically above or as explained generally did conspire together to defraud and extort from me my gas station business.

583) Subsequently, in the last part of August and continuing through September and October, the defendants VO, THACH and ARIF, at a time when I, HOAI, was taking effective action to recover my business, did commit further acts of fraud using the telephone and the mails to aid, abet, counsel, command and procure this pattern and scheme of racketeering activity, in connection with the attorneys ROSEMAN and OTTMAN, including the filing of fraudulent sham pleadings, further acts and threats of violence and lies, in which the attorneys ROSEMAN and OTTMAN also became

active as actors and participated in events that they should have known were improper.

584) I, HOAI, my wife, my mother-in-law, and my four small children suffered great mental anguish, pain and suffering and emotional and mental distress because of the slanders and lies, the tormenting cruel "mind games" used to deceive me and my wife and destroy my businesses and business reputation, the constant threats of physical violence, bodily harm and death, of false allegations control of the authorities and powerful institutions affecting my businesses and business life, such as the McLean Bank, the Sun Oil Company, D.C. Government agencies, the police, my insurance agent, and others.

585) As part of this pattern of

racketeering activity as set out above defendants VO and THACH and ARIF, aided, abetted and counselled by the defendants MINH and LUU, stole the emblements of ownership of my business name and trade name for the gas station, SUNTECH SUNOCO, INC., and appropriated the same through that corporation to their unlawful purposes by these acts of fraud and extortion alleged above and other such acts and further fraud.

586) It is almost as a matter of course that a dealer and person experienced in the gas station business such as I was before this pattern of racketeering activity was practiced upon me, will obtain a franchise such as this one after the one year trial period. This is the purpose and effect of the thorough screening of applicants for such lease and

franchise businesses which is done by large oil companies such as the Sun Oil Company and which was done by the Sun Oil Company in this instance. The history of such lease and franchise arrangements and statistical evidence shows that in most cases such "trial" arrangements result in ongoing dealer relationships that last upwards of twenty years.

587) In this case the Sun Oil Company had worked with me in the gas station business for years and knew me and my capabilities well. Indeed, the Sun Oil Company had informed me that in my case the one year trial period was only a formality and that there was no question but that I would become a semi-permanent lessee and franchisee, or dealer. To this end I and the Sun Oil Company had negotiated and agreed upon certain target

figures which were included in the contract between us with target dates, that both of us knew could be achieved by me at the site in question.

588) The gas station on Pennsylvania Avenue, S.E., in the District of Columbia is a large station and a high-volume site because of its strategic location on a major traffic artery leading in and out of the city in a neighborhood that "bottomed out" in terms of real estate values declining in the late 1970's and is now steadily increasing in terms of real estate values.

589) In 1980, when the neighborhood of this station had just "bottomed out" in terms of decline in real estate values, I, HOAI, had negotiated to acquire this same station from the SUNOCO dealer who then had it (now a dealer nearby for another

oil company) for a price of one hundred and thirty-nine thousand dollars ($139,000.). At that time I was discouraged by the Sun Oil Company from completing the purchase of the station business though Sun Oil Company had no quarrel with that price but rather solely on the grounds that I need not pay that money to buy from the prior dealer because that dealer was not an efficient dealer for SUNOCO and, despite the fact that the then dealer in this station had been with SUNOCO many years they were hoping that the man would take the exceptional step of easing this dealer out which would enable me to get the station by direct dealing with Sunoco at that time. Sunoco had offered dealerships to me at other sites and locations in addition to the time that I was a Sunoco dealer in Greenbelt, Md.,

where I also was defrauded and extorted of that business as related at paragraphs 684 to 685 and 736 below.

590) Under the prior dealership at the Pennsylvania Avenue Sunoco station, the monthly gallonage was on the average between eighty (80) and eighty-five (85) thousand gallons per month. When I, HOAI, entered into the dealership that was defrauded and extorted from me by the pattern of racketeering activity described herein, the station had been closed since sometime in early January of 1986 or thereabouts, or about three months, more or less.

591) I, HOAI, and the Sun Oil Company, calculating the historical gallonage of this station, and the known quality of my documented experience and abilities, agreed that certainly I could

in three to six months or thereabout boost the gallonage of the station to over one hundred thousand (100,000.) gallons per month.

592) Immediately upon opening the station, even with defendants VO and THACH and ARIF interfering with the financial arrangements and hiring practices of the station, I was able to immediately sell at a rate of forty-five to fifty thousand gallons (45,000. to 50,000.) gallons per month.

593) In a few short weeks before the threats on my life and to my person and my family and the other activities deprived me of any semblance of management control of the station, I, HOAI, was able to get the station gallonage up to over sixty thousand (60,000.) gallons per month, showing that the calculations between Sun

Oil Company and myself in this regard were correct. Sun Oil Company and I were so certain of the correctness of this figure that SUNOCO included in their negotiations and agreement an incentive plan under which, when the one hundred thousand gallons (100,000.) per month figure was reached, I, HOAI, would receive a one thousand dollar ($1,000.) per month reduction in the figure which he was to otherwise pay monthly to SUNOCO under the terms of the franchise and lease agreement, which was set at four thousand and five hundred dollars ($4,500.) per month.

594) As a general rule in the gas station business the gross income from the items other than the sale of gasoline itself runs about sixty percent (60%) of the gross income generated from gasoline

sales. This other income includes the income from mechanical repair work (there are three mechanic's "bays" in the 2305 Pennsylvania Avenue, S.E., station) and from the sales of oil and other fluids, tires, batteries and accessories (TBA) and other incidentals (cigarettes, candies, etc., which in this case were directly fraudulently and extortionately appropriated by the defendants VO and THACH). The defendants herein directly interfered with my hiring of mechanics and establishment of incidental sales. Nonetheless it is possible to estimate within the applicable authorities from industry figures and practices and the past experience of myself and SUNOCO that the figure of sixty percent (60%) is accurate.

595) The Sun Oil Company has a

company wide program under which it establishes at appropriate sites, with its franchisees and dealers, a "C MARKET STORE." Such a C MARKET STORE is a convenience food store or "mini-market," placed in a station site by agreement between SUNOCO and the franchisee or dealer at that location. SUNOCO has discovered, and industry experience proves, that when such a mini-market or C MARKET STORE is installed at a location such as the one at issue here, gasoline sales increase by between thirty-five and forty percent (35 and 40 %).

596) So that in this instance, when the one hundred thousand (100,000.) gallon per month figure was reached as agreed between SUNOCO and me that the location and my good management capabilities would enable to be done, that gas sales would be

increased by a further increment to one hundred and forty thousand gallons (140,000.) per month.

597) So confident were Sun Oil Company and I of these figures that the SUNOCO area manager, Ernie Peele, informed me that he had already planned and initiated the paperwork for the installation of such a C MARKET STORE at the 2305 Pennsylvania Avenue station in three to six months as soon as the one hundred thousand (100,000) gallon per month figure was reached and, further, as was standard, SUNOCO would pay for the building and installation and conformity to code and other applicable regulations of the C MARKET STORE building and that I, HOAI, would not have to pay any additional rent; I would still get the discount of one thousand dollars ($1,000.) per month

and so for the franchise, lease, and the C MARKET STORE, with me making a combined monthly payment of three thousand and five hundred dollars ($3,500.) per month. I would have to stock the store with inventory on my own account under the agreement, which is standard.

598) Based on industry figures and the gallonage and traffic volume figures for the site and the market characteristics of the neighborhood, the minimum gross sales of such a mini-market in this location would be in a range of from twelve hundred to fifteen hundred dollars ($1,200. to $1,500.) per day at the outset of such a business, with a minimum increase over a period of a year of another five hundred dollars ($500.) per day.

599) I, HOAI, and my wife, as our

experience in the Mekong Center food store business, in increasing its daily gross sales shows, from one hundred dollars ($100.) per day to eight or nine hundred dollars ($800. or $900.) per day shows, were well equipped by experience and capability to run such a C MARKET STORE.

600) With the C MARKET STORE and the capabilities and experience of myself or any other similar experienced and equally skilled station operator, and given the high traffic volume at the location and the growth and development of the surrounding areas and the areas connected by Pennsylvania Avenue, S.E., the station, absent the tortious and illegal activities of the defendants named in this count, could be reasonably expected, and the same can be calculated within the confines of

relevant authority, to reach a gallonage figure within two years.

601) Altogether, but for the damages to me, HOAI, my business and business reputation proximately caused by this pattern of racketeering activity engaged in by these defendants named in detail for wrong-doing, namely defendants VO, THACH, MINH, LUU, ARIF, SOLAND, SUNTECH SUNOCO, and attorneys ROSEMAN and OTTMAN, my gas station business, lease and franchise, would have generated gross sales, including the C MARKET STORE sales starting after six months, of, in the first full year of operation, in excess of one million and four hundred and fifty-seven thousand dollars ($1,457,000.), in the second full year of operation, such sales in excess of two million and eight hundred and nine

thousand dollars ($2,809,000.) and in the third year and each year thereafter, in excess of two million and nine hundred and thirty-five thousand dollars ($2,935,000.) without regard to interest due me on any reward herein or any increment of growth or price increase after a two year startup period.

602) Over an average twenty-five years life of a dealership, this particular lease, franchise and dealership would have generated, absent the tortious activity of these defendants, in excess of eighty million dollars ($80,000,000.).

603) It can be shown that the gross profit of such a business, calculable and awardable in this instance under relevant authority as applied to the facts of this case, would be calculable according to the following formulae: gross profit on

gasoline sales equals twenty-four percent (24%) of gross sales; gross profits on oils, other fluids, TBA and mechanical work gross profit equals forty percent (40%) of gross sales; gross profit on C MARKET STORE sales equals thirty-five percent (35%). I know that industry data indicates this.

EXTORTION OF MY BUSINESS INTEREST AND THAT OF MY WIFE IN THE MEKONG CENTER FOOD STORE

604) For clarity I repeat and incorporate herein by reference my statements of paragraphs 1) through 603) above.

605) After the deception and extortion practiced upon me on the evening of May 2, 1986, by the defendants MINH, LUU, VO and THACH at the condominium home of defendants MINH and LUU, in which I was

forced to surrender my "loan" of the certified check to myself for fifteen thousand dollars ($15,000.) to defendants MINH and LUU because of the continuing threats of VO and THACH, so that the defendants MINH and LUU could honor the fifteen thousand dollar bad check that they had given to the American Service Center, I was extremely despondent, as was my wife. I had been deceived, defrauded and extorted into signing a thirty thousand dollar note, and the only thing I had in exchange that I could hope to do anything with was the claim that I had paid fifteen thousand dollars ($15,000.) of the agreed upon twenty thousand dollar ($20,000.) purchase price to defendants MINH and LUU for the purchase of the Mekong Center food store business as part of the transaction.

606) This supposed loan of the fifteen thousand dollar certified check to be paid to defendants MINH and LUU was in itself an act of extortionate credit and extortionate collection of debt in that VO, THACH, MINH and LUU never intended to actually lend me thirty thousand dollars ($30,000.) or even fifteen thousand dollars ($15,000.) as represented, but only to establish a claim against me for the larger amount without ever actually letting me have any real benefit or use of even the smaller amount of money. This was later made evident to me and my wife by further acts of fraud, deceit and extortion by these defendants.

607) Nonetheless, though my wife and I knew that we had been badly deceived, defrauded and extorted, I was determined to see if I could at least get the long

promised lease for the Mekong Center food store business signed now that I had, as I thought, given the defendants MINH and LUU fifteen thousand dollars ($15,000.) toward the twenty thousand dollar ($20,000.) purchase price which I and my wife and the defendants MINH and LUU had agreed upon.

608) At this time my wife and I had access to, within my and my wife's family connections, another five thousand dollars ($5,000.) to complete paying the agreed upon purchase price of the Mekong Center food store business. But I was determined not to pay the last five thousand of the purchase price until I got the long promised lease signed.

609) At the meeting on the evening of May 2, 1986, where I was so badly deceived and extorted, the defendants MINH and LUU, as aforesaid, told me that they were too

upset to sign the lease that evening and said that they would sign the lease tomorrow.